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BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

OCT 28 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CC Docket No. 96-128

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of the Pay Telephone)
Reclassification and Compensation)
Provisions of the Telecommunications Act)
of 1996)

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**COMMENTS OF
ARCH COMMUNICATIONS GROUP, INC.
IN SUPPORT OF PETITIONS FOR RECONSIDERATION**

Arch Communications Group, Inc. ("Arch"), by its attorneys, hereby files Comments in Support of Petitions for Reconsideration filed in the above-referenced proceeding. Arch supports those Petitioners seeking reconsideration of (1) the decision to order a "carrier pays" compensation scheme for payphone service providers ("PSPs") rather than a calling party pays, or coin drop, compensation scheme; (2) the decision to adopt a market-based payphone provider scheme; and (3) the failure to require interexchange carriers ("IXCs") to spread PSP compensation costs among all 800 number users, or in the alternative, allow a portion of the subscriber line charge ("SLC") to be used to compensate PSPs.

**I. THE COMMISSION SHOULD ADOPT A CALLING-PARTY PAYS
COMPENSATION APPROACH**

Arch agrees with the Personal Communications Industry Association ("PCIA"), AirTouch Paging ("AirTouch") and PageMart II, Inc. ("PageMart") that the Commission's rejection of the calling-party pays compensation scheme is not supported by the

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record.¹ In rejecting a calling-party pays approach to compensation, the Commission stated that such a system would “unduly burden” transient payphone callers, would involve greater transaction costs and is barred by Section 226(a)(7) of the Communications Act (“TOCSIA”) which prohibits the adoption of compensation rules for interstate access code calls that require “advance payment by consumers.”²

Neither the Commission nor any of the commenters in this proceeding has documented why depositing coins in a pay telephone is burdensome for transient callers. Arch agrees with AirTouch and PCIA that, to the contrary, a coin drop approach is both administratively simple and places the burden for financing payphones on the cost causer - the payphone user.³ Further, contrary to the Commission’s analysis of TOCSIA as precluding a calling-party pays approach, Arch concurs with AirTouch that the plain language of the Act defines “provider of operator services” in a manner that excludes CMRS providers that are subscribers and resellers of 800 numbers, including paging licensees.⁴ Thus, there is no statutory prohibition against a calling-party pays compensation approach.

¹ PCIA Petition for Reconsideration at 3-7; AirTouch Petition for Partial Reconsideration at 4-11; PageMart Petition for Reconsideration at 2-3.

² *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, FCC 96-388 (rel. Sept. 20, 1996), at ¶ 85 (“*Payphone Compensation R&O*”).

³ AirTouch Petition for Partial Reconsideration at 8-9; PCIA Petition for Reconsideration at 5-6.

⁴ AirTouch Petition for Partial Reconsideration at 9, *citing* 47 U.S.C. § 226(a)(9); *see also* PageMart Petition for Reconsideration at 2.

II. A MARKET-BASED COMPENSATION RATE FOR SUBSCRIBER 800 CALLS IS NOT SUPPORTED BY THE RECORD AND RESULTS IN A WINDFALL TO PSPs

The Commission has reached the conclusion that “fair compensation” for PSPs is the local market-based coin rate.⁵ As AT&T, Sprint and several other Petitioners note, this market-based, per-call compensation approach lacks factual support in the record, is illogical and is inconsistent with the Commission’s recent decision in the Local Competition proceeding.⁶

AT&T correctly notes that the record directly refutes the Commission’s conclusion that local coin rates are an appropriate surrogate for a per-call compensation rate for 800 subscriber and access code calls, calls which do not require the use of a coin.⁷

Further, reliance on actual market rates or fully distributed costs is inconsistent with the compensation methodology the Commission has just adopted in the Local Competition proceeding.⁸ In that proceeding, the Commission embraced TELRIC as the appropriate methodology for carriers to recover their interconnection costs of origination and termination. In the *Payphone Compensation R&O*, however, the Commission adopts a markedly different compensation approach without explaining how TELRIC (or some

⁵ *Payphone Compensation R&O* at ¶ 70.

⁶ AT&T Petition for Reconsideration at i, 5-15; Sprint at 1-8; PageNet at 4-16; PCIA at 7-9; AirTouch at 11-13.

⁷ AT&T Petition for Reconsideration at 3.

⁸ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket no. 96-98, First Report and Order, FCC 96-325 (rel. Aug. 8, 1996) (“*Local Competition Order*”).

other forward-looking cost-based compensation model) will somehow be “unfair” to the affected parties which, in the payphone compensation context, includes PSPs as well as carriers and consumers who have to pay such compensation. The Commission merely asserts that using a compensation method such as TELRIC “could leave PSPs without fair compensation . . . because such a standard would not permit the PSP to recover a reasonable share of the joint and common costs associated with those calls.”⁹ This reasoning is flatly inconsistent with the Commission’s conclusion in the Local Competition proceeding that use of the TELRIC methodology will provide for the proper recovery of joint and common costs.

Furthermore, as several Petitioners note, the Commission’s market-based approach results in an inappropriate windfall to PSPs which will undercut effective compensation in both the payphone and messaging industries.¹⁰ According to AT&T, the rules adopted in the instant proceeding will create a billion dollar windfall for PSPs over the next several years, with the RBOCs alone benefitting by over \$500 million per year.¹¹ PSPs certainly are entitled to fair compensation; they are not, however, entitled to exorbitant profits.

⁹ *Payphone Compensation R&O* at ¶ 68.

¹⁰ AT&T Petition for Reconsideration at 3; Sprint at 4-6; PCIA at 7-9; PageNet at 7-9; AirTouch at 11-13.

¹¹ AT&T Petition for Reconsideration at 3.

III. IF THE COIN DROP APPROACH IS REJECTED, IXCS SHOULD BE REQUIRED TO SPREAD THE COST AMONG ALL 800 USERS OR PERMIT AN INCREASE IN THE SUBSCRIBER LINE CHARGE

If the Commission rejects a coin-drop approach, Arch supports the request of PageNet and several other Petitioners that the Commission require IXCs to spread the costs of compensating PSPs over all 800 subscribers and 800 access code users. The record demonstrates that 800 subscriber carriers will not be able to bill their own subscribers on a per-call basis and, because 800 subscribers do not have information related to per-call costs, they will be unable to choose whether to block or accept calls.¹² Requiring the IXCs to spread their compensation costs over all 800 subscribers and 800 access code users will minimize the amount of tracking that will otherwise need to occur as well as reduce the level of uncollectibles that will be faced by the industry as a whole.¹³

Alternatively, as proposed by PageNet, PCIA and PageMart, the Commission should establish a mechanism whereby PSP compensation costs can be recovered through the SLC. As PCIA points out, the funding mechanism for the SLC is already in place.¹⁴ Arch agrees that this would be the least disruptive method of collection, would impose the fewest administrative burdens on the industry and would result in a smaller overall financial burden on telecommunication users.

¹² PageNet Petition for Limited Reconsideration at 16-20.

¹³ *Id.* at 17.

¹⁴ PCIA Petition for Reconsideration at 10.

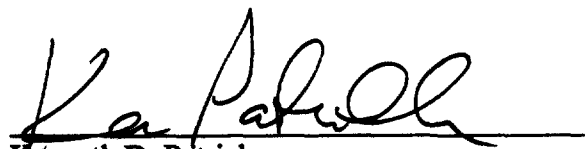
IV. CONCLUSION

The Commission should reconsider its decision to institute a carrier pays compensation scheme for PSPs. The market-based compensation scheme adopted by the Commission is not supported by the record and results in an unfair windfall to PSPs. The Commission should instead institute a calling-party pays or coin drop approach to such compensation. This type of methodology would not burden transient payphone users and, with respect to 800 number paging services, is not prohibited by TOCSIA. If the Commission decides not to adopt a calling-party pays compensation scheme, the Commission should at least require that IXC's spread their PSP compensation costs across all 800 subscribers and 800 access code users; or, in the alternative, allow the recovery of costs through the SLC.

Respectfully Submitted,

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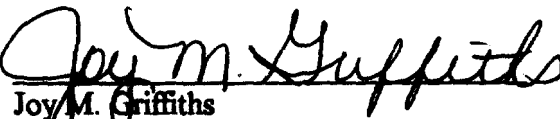
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